

REMARKS:

Claims 1-36 are presented for examination. Claims 1, 4, 8, 20 and 24 are amended hereby. Claims 37-79 have previously been withdrawn (without prejudice or disclaimer).

Initially, notice is respectfully taken of the Examiner's indication (made at page 4 of the June 6, 2006 Office Action) that claims 4, 8, 9, 24 and 25 recite allowable subject matter (i.e., that claims 4, 8, 9, 24 and 25 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims).

In this regard, it is noted that claim 4 has been so re-written in independent form. Thus, claim 4 is now clearly in condition for allowance.

Likewise, it is noted that claim 8 has been so re-written in independent form. Thus, claim 8 is now clearly in condition for allowance.

Further, it is noted that claim 9 depends from claim 8. Thus, claim 9 is now clearly in condition for allowance.

Further still, it is noted that claim 24 has been so re-written in independent form. Thus, claim 24 is now clearly in condition for allowance.

Moreover, it is noted that claim 25 depends from claim 24. Thus, claim 25 is now clearly in condition for allowance.

With reference now to the Examiner's indication (made at page 2 of the June 6, 2006 Office Action) that corrected drawings are required, it is respectfully noted that such corrected drawings are attached.

Reconsideration is respectfully requested of the rejection of claims 1-3, 5-7, 10-23 and 26-36 under 35 USC 103(a) as allegedly being unpatentable over U.S. Patent 6,599,290 ("Bailey et al.") in view of U.S. Patent 6,152,927 ("Farris et al.").

Initially, it is noted that applicants respectfully disagree with the Examiner in the Examiner's analysis of claims 1-3, 5-7, 10-23 and 26-36 of the present application and the Bailey et al. and Farris et al. references. Nevertheless, in order to expedite prosecution of the application, independent claim 1 has been amended hereby to more clearly distinguish over the cited references by specifically reciting: (a) that the first, greater wall thickness is at a first position on a perimeter of the washer and the second, lesser wall thickness is at a second position on the perimeter of the washer radially separated from the first position; and (b) that when the bone screw is inserted in the aperture of the implant member and the hole of the washer such that the thicker region of the bone screw is in the second region of the aperture, rotation of the washer causes movement of the

first region of the washer relative to the second interior perimeter surface such that the washer applies lateral force to the bone screw to laterally press the bone screw against the implant member and to fix the bone screw in orientation relative to the implant member.

Similarly, independent claim 20 has been amended hereby to more clearly distinguish over the cited references by specifically reciting: (a) that the first, greater wall thickness is at a first position on a perimeter of a respective washer and the second, lesser wall thickness is at a second position on the perimeter of the respective washer radially separated from the first position; and (b) that when each of the bone screws is inserted in a respective aperture of the implant member and a hole of a respective one of the washers such that the thicker region of the bone screw is in the upper region of the aperture, rotation of the washer causes movement of the first region of the washer from the first region of the respective recess to the second region of the recess such that the washer applies lateral force to the bone screw to laterally press the bone screw against the implant member and to fix the bone screw in orientation relative to the implant member.

The claimed configuration is shown, for example, in Fig. 3B and described at page 9, lines 6-12 as follows:

Referring now generally to Figure 3B, it is seen that each washer 18 is provided with a sidewall 28 (which sidewall 28 defines the aperture 19 through which the bone screw extends) and that the sidewall 28 has a varying thickness with respect to position along the washer's perimeter (see also, for example, Figure 7A). In one embodiment, the washer 18 is provided with a first sidewall region 28a that is relatively thicker than a second sidewall region 28b (i.e., in this embodiment dimension "a" is greater than dimension "b" (see Figure 3B)).

In marked contrast, Bailey et al. fails to show, teach or suggest a configuration in which a washer with two different wall thicknesses which are radially separated along a perimeter of the washer applies lateral force to a bone screw to laterally press the bone screw against an implant member.

In this regard, it is noted that the first and second thicknesses called out by the Examiner on page 3 of the June 6, 2006 Office Action (relating to Fig. 4 of Bailey et al.) differ going in a direction from the top to the bottom of the element 16, but not at radially separated positions along the perimeter.

Further, it is noted that Bailey et al. does not utilize a washer which applies lateral force to a bone screw to laterally press the bone screw against an implant member. Rather, in Bailey et al. the bone screw pushes up on locking ring 16 and locking ring 16 itself is forced towards the plate member:

The bone screws 14 can be inserted with a conventional tool (not shown) having a philips-type head. When the bone screws 14 engage a vertebral body 18 and through rotation are drawn downward, the spherical segment 62 of the head portion 58 resiliently expands the locking member 16 from the retracted state to the expanded state. After the head portion 58 passes completely through the opening 76, the locking ring 16 resiliently returns to its retracted state and provides an audibly perceivable click. In this manner, the bone screws 14 are prevented from backing out relative to the plate member 12 and from loosening their purchase within the vertebral bodies 18. The particular configuration of the locking member 16 effectively prevents backing out of the bone screws 14. In this regard, if a bone screw 14 begins to back out, the head 58 of the bone screw 14 will engage a conically tapered inner surface of the locking ring 16. Such engagement forces the first radially extending flange 70 [of locking member 16] radially outward into the groove 80. (col. 6, lines 43-60) (emphasis added)

Of course, Farris et al. likewise fails to show, teach or suggest a configuration in which a washer with two different wall thicknesses which are radially separated along a perimeter of the washer applies lateral force to a bone screw to laterally press the bone screw against an implant member.

Accordingly, it is respectfully submitted that the rejection of claims 1-3, 5-7, 10-23 and 26-36 under 35 USC 103(a) as allegedly being unpatentable over Bailey et al. in view of Farris et al. has been overcome.

Finally, it is noted that this Amendment is fully supported by the originally filed application and thus, no new matter has been added. For this reason, the Amendment should be entered.

For example, support for the amendment of claims 1 and 20 may be found in claims 1 and 20, as filed; at page 9, lines 6-12; in Fig. 3B; and throughout the specification.

Accordingly, it is respectfully submitted that each objection and rejection raised by the Examiner in the June 6, 2006 Office Action has been overcome and that the above-identified application is now in condition for allowance.

Respectfully submitted,
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